

REMARKS

The revisions address the examiner's 112 objections with respect to claims 9, 11 and 12.

Claim 9 has been amended to avoid reciting that the curved top surface resembles "a top surface of an upside down spoon" Instead, it now recites a curved smooth top surface from the distal end to the proximal end. This is clearly shown in the drawings such as in FIGS. 4, 5 and 8. New claim 17 which is dependent on claim 9 goes into further detail and recites: "the curved smooth top surface at the distal end is concave and wherein a remainder of the curved top surface gradually declines in slope to the proximal end". This too is clearly shown from FIGS. 4, 5 and 8.

To address the examiner's objection, claim 11 has been revised to refer to a lateral cavity that is substantially cylindrical rather than annular.

Claim 12 was canceled.

With respect to the examiner's prior art rejections, the examiner rejected claims 9-14 as being unpatenable over Fortune in view of Collins. In reaching this conclusion, the examiner assumed that it would be appropriate to combine Fortune and Collins. In this regard, the examiner stated that "to make Fortune's top surface of the stop end in the shape of a curve would have been obvious to a person having ordinary skill in the art in order to improve the aesthetic appearance of the end stop in view of the teachings in Collins". It is respectfully submitted that in general it would not have been obvious to combine Collins and Fortune. It is further respectfully submitted that even if hypothetically one nevertheless did combine Fortune and Collins, one would still not have certain critical features of the claimed invention.

In General It Would Not Have Been Obvious to Combine Fortune and Collins

Fortune, in column 2, lines 45-54, expressly teaches away from being combined with Collins. Fortune argues that the device taught by Collins, unlike the device taught by Fortune, is too costly because of its many parts. Furthermore, Fortune itself argues that Collins is complex to attach. Most importantly, Fortune argues that Collins seems "to be designed for installation by a shoemaker", unlike the device in Fortune, which is claimed to be easy to attach.

Finally, each of these references are complete and functional in themselves and there would be no reason to use parts from Collins to modify Fortune. For these reasons, it is simply illogical and inappropriate to combine the device in Fortune and the one in Collins at all. It certainly would not have been obvious to one skilled in the art to do so

Even if Combined, Fortune and Collins Would Lack Critical Features of the Claimed Invention

The following argument should not be used to detract from the fact that the proposed combined references should in fact not be combined.

Even if combined, which they should not be, Collins and Fortune would lack a critical feature of the claimed invention. That feature is a large visible surface area that can be used to be decorated with decorations, colors and interesting designs.

The advantages of this feature are described in the Specification. In the "Objects and Advantages" section of the Description, "Object and Advantage" no. "(xii)" states: "To provide a fastening device that has large enough visible surface areas available to accommodate the use of decorations, colors and interesting designs;" Furthermore,

"Object and Advantage" no. "(xvi)" states: "To provide a fastening device that includes a first mating member whose curved stop ends have on their top surface an inverted spoon design that makes unlocking the fastening device easier."

This was also stated in the original Specification. In the last sentence prior to the "Cross-Reference" section it stated: "I give enough surface area for designs colors, which will be helpful in sales." In the last text page of the Specification it states that in contrast to Fortune, the present invention's "surface area not only aids in strength but gives room for style, which is just as important."

Although the original Specification was perhaps a little a clumsily written, it does emphasize these two things clearly – the aforementioned large visible surface area to accommodate decorations, colors, designs, etc. and (ii) the improved stylistic effect of this large continuous surface area shown in the drawings in FIGS. 4, 5, 8.

These features are not taught by Fortune or Collins or Jackson or Rashid or the rest of the prior art cited by the examiner. That is, the prior art does not teach the idea of a curved top surface extending over the entire surface of the device, especially of the curved stop ends of the device, having a large visible surface area to accommodate decorative designs, decorations and colors and to improve the overall style of the device from the visual effect of the continuous surface area shown in FIGS. 4, 5 and 8. Rather, Collins merely teaches the idea of a slightly rounded top surface at the distal end of the stop end.

It is one thing to say that Collins teaches making the top flat surface of the cylindrical segment 22 of Fortune slightly curved. It is quite another thing to teach making the entire top surface area of the stop ends of the device of the present invention

curved in the way shown in FIGS. 4, 5 and 8. Collins does not teach making the entire top surface of the curved stop ends curved and smooth for application of decorations, style, designs, etc. Modifying Fortune to making the top surface of the cylindrical segments 22 of Fortune curved still leaves a gaping visual "disconnect" when you go from the modified top surface from the cylindrical segment 22 to the top surface of the cylindrical shaft 26 of Fortune. There would be no gradual continuous smooth slope from the cylindrical segment to the shaft 26. The result is the complete lack of the long continuous smooth visible surface area that accommodates applications of decorations, designs and colors i.e. the long continuous smooth area of decoration. Furthermore, the visual "disconnect" detracts from achieving the improved overall style.

It is also noted that boring a hole into the side façade 28 of cylindrical segment 22 of Fortune to accommodate insertion of an elastomeric member as taught by Collins would also not achieve either of the above features.

In sum, the prior art does not teach a fastener device having the structure necessary to achieve the stylistic design advantages achieved by the present invention, that of having a large visible surface area that accommodates the use of decorations, colors and interesting designs.

The examiner's statement that "the specification fails to disclose any criticality associated with the claimed attaching arrangement" is also not correct. The specification discloses a large visible surface area and discloses the advantages of having such a large surface area for the use of interesting visible colors and designs. The specification also discloses how this visual effect creates an improved style, which has a value. Thus the present invention disclosed advantages over the prior art. One can see from the drawings

that to achieve this large visible surface area one needs that sloping large surface area rather than the discrete flat topped stop end of Fortune.

Finally, the examiner's assertion that Fortune teaches the use of color for the stop ends and elastomeric member merely shows that those skilled in the art consider it an advantage to make the fastener device attractive. But the prior art does not teach how to do so - they do not teach a specific structure that accommodates the intended purpose of having a large enough visible surface areas available on the top surface of the curved stop ends to accommodate the use of decorations, colors and interesting designs in a way that is attractive and that has improved style.

In sum, it is respectfully submitted that the suggested prior art should not be combined but even if it is combined it does not disclose enough to form a basis for rejection of the claims.

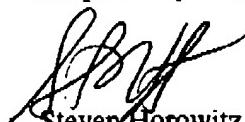
Since all of the foregoing amendments are understood to place the application in condition for allowance, their entry is submitted to be appropriate and is respectfully requested.

It is respectfully submitted that claims 9, 10, 11, 13, 14, 17 distinguish over the prior art and should be allowed.

Accompanying this Amendment is a RCE Transmittal form and a credit card payment form (PTO-2038) authorizing payment of an additional \$450 for a Response Within Third Month because of receipt of a notice of non-compliant amendment which amendment filed August 23, 2005 had been accompanied by the previously submitted \$455 for the \$395 RCE filing fee and \$60 for a Request for Extension Within First Month.

Dated: October 27, 2005

Respectfully submitted,



Steven Horowitz, Attorney for Applicant
Registration No. 31,768
295 Madison Avenue, Suite 700
New York, NY 10017
(212) 867-6800